

Connecticut Department of Environmental Protection  
Release Reporting Advisory Committee  
January 8, 2008

**Summary of Meeting Notes**

Co-Chair Mark DeCaprio opened the meeting at 9:35 am. Approximately 18 stakeholders and 9 DEP staff attended the January 8, 2008 meeting

**Agenda Item 1 Opening Comments**

Also reported that Co-Chair Carol Violette could not make the meeting due to illness.

**Agenda Item 2 - Federal Reporting Authority**

*Anne Peters, Carmody & Torrance*

*Lori Saliby-DEP*

Definitions - Federal Reporting Criteria

- Single reports for non-continuous releases.
- Follow-up reports, rather than multiple “initial” reports, are allowed for qualifying continuous releases.
- Notification based on reportable quantities (RQs) is merely a trigger for informing the government of a release so that the need for response can be evaluated and any necessary response undertaken in a timely fashion.
- No linkage to remediation/closure – reporting and cleanup separate issue.
- RQs by compound, and set forth in the lists of compounds.
  - RQ’s are determined by the quantity released into the environment over a 24 hour time period from a single facility, thereby requiring aggregation of certain releases.
- Default RQs for wastes that are not listed.
- Conflicts between requirements are resolved in favor of the lower RQ.

Reporting Criteria

- Single reports for non-continuous release
- follow-up reports, rather than multiple initial reports are allowed for qualifying continuous releases
- Reportable quantities are determined by the quantity released into the environment over a 24 hour time period.
- Immediately verbal by phone to National Response Center (NRC)
  - EPA defined immediate as within 15 minutes.
  - Regulations imply but do not state what must be said during call

Information to Report

The EPA web site has instructions on how to report a release or spill.

- Your name, location, organization, and telephone number
- Name and address of the party responsible for the incident
- Date and time of the incident
- Location of the incident
- Source and cause of the release or spill

Information to Report continue

- Types of materials(s) released or spilled
- Quantity of materials released for spilled
- Danger or threat posed by the release or spill
- Number and types of injuries (if any)
- Weather conditions at the incident location
- Any other information that may help emergency personnel respond to the incident

Recordkeeping Nonreportable Releases

There are no record keeping requirements for nonreportable releases

There may be other additional more stringent requirements in other laws and regulations such as

- Oil Pollution Prevention Act
- CERCLA
- UST Regulations
- Clean Water Act

Applicability to PreExisting Conditions (Historical)

There is no applicability to preexisting historical conditions.

Penalties

EPA has civil and criminal statutory penalties.

Questions

Anne reported that they did not look at the actual reportable quantity levels.

-Did anyone look into the federal revising reportable quantities?

Anne reported no to the answer and indicated possible follow up.

What are the sections of what laws and regulations for preamble?

42 USC 9601, CWA § 102, 40 CFR 302, and 50 FR 13,456

Lori Saliby reported on the following highlights:

Applicability

Persons in charge of vessels/facilities notified immediately within 15 minutes of a reportable release to NRC. It was reported that the intent is to allow EPA to focus resources on the most serious releases avoid expending resources on majority of releases and creating databases – instead focus on key elements to keep it manageable.

Exclusions to the Definition of Release

- Releases that result in exposure to persons in a workplace that are the basis of claims against employer;
- engineer exhaust from vehicles and rolling stock;
- nuclear incidents subject to Atomic Energy Act of 1954, etc.
- normal application of fertilizers
- Additional exclusions to reporting include certain releases of radionuclides.

RQs 's are determined by the quantity released into the environment over a 24 hour time period from a single facility requiring aggregation of certain releases. Example If it takes 36 hours to

reach requirements then not reportable. If whole tank leaks over a period of one year does not reach reportable quantities within the 24 hours is not reportable.

-Rules are established for determining whether a mixture is reportable. Example – If you have a mixture of reportable material and non-reportable material mixed together then the reporting quantity is only for the reportable material percentage reached within 24 hours if that percentage does not reach RQ it is not reportable. When reported, EPA will ask location of wells etc so they can consider these issues when deciding to respond.

#### Number of RQ Levels and their Values

It was reported that EPA adopted five reportable quantity levels of 1, 10, 100, 1000 and 5000 pounds originally established in the CWA. EPA adopted the five level system because

- It has been successfully used pursuant to the Clean Water Act,
- The regulated community is already familiar with these five levels, and
- It distinguishes the broad range of potential harm posed by CERCLA hazardous substances.

#### Methodology Used to Adjust RQ -Hazardous Substances Covered

##### **– Primary Criteria**

- ignitability,
- corrosivity,
- reactivity
- chronic toxicity
- aquatic toxicity
- mammalian toxicity

##### **- Secondary Criteria**

biodegradation,  
-hydrolysis, and  
-photolysis

It was reported that the RQ's have no bearing on State reporting.

### **Agenda Item 3 - Workgroup Reports**

#### **Other State Reporting/Models Workgroup.**

Peter Zack reported his observations of Michigan and Massachusetts models.

- Michigan appeared to be decentralized with various set of regulations.
- Massachusetts appeared to be comprehensive from notification to closure process.
- Members were asked if there were any other state models that they wish the workgroup to research.
- Members reviewing specific state reporting requirement models for key elements - definitions, reporting criteria, exceptions, reporting procedure, mitigation, removal and disposal, information to report, record keeping for nonreportable releases to impermeable containment systems or surfaces, applicability to preexisting conditions.
- Florida is based on federal requirements and then 10/20 gallons for oil.
- Most states have separate regulations for oil and sheen reporting.
- All members were invited to join any of the workgroups. It was noted that the Closure and Historical workgroups will be meeting soon.

### **Risk Assessment Workgroup**

Lori Saliby reported that the Risk Assessment Workgroup has met three times. The focus of the workgroup is the reporting criteria in relation to risk and exemptions, as how they relate to risk and what drops out based on risk.

- Workgroup is evaluating risk for reporting requirements based on substance, location, area type, biodegradability, threat to livestock/kids and toxicity
- Reported that the majority of petroleum releases are petroleum based. It was mentioned that if reporting level was raised to 5 gallons it would reduce the number of currently reported spills by a large percentage. Lori indicated that she has no analysis supporting this statement.
- Risk and source information and evaluations were discussed at the 1/7/08 meeting.
- Each member assigned to research a risk source including RSRs, health department protocols, OSHA, NIOSH, and the Massachusetts Contingency Plan.

### **Integration/Simplicity Workgroup**

Lori Saliby provided the Advisory Committee with an overview of the current Integration/Simplicity workgroup efforts.

- Looked at two models – Michigan and Massachusetts
- Group did not like Michigan -found it cumbersome and complex. Preferred Massachusetts as it related more to the groups ideas of simplification.

The question was asked if we have a Michigan scenario in CT? Complex UST release, significant Environment Hazard report, etc. Suggestion to mesh all into one reporting mechanism and place to report and then that place would disseminate information to the individual programs.

### **Closure Workgroup**

Peter Zack reported the Closure workgroup has not met and plans to meet after the other workgroups have moved forward with their goals and objectives.

### **Historical Releases Workgroup**

Workgroup has not met.

### **Agenda Item 5 - Open Discussion**

- Questions arose regarding the scope of the project – how broad? What spills must be reported and what triggers reportable quantities.
- It was asked which workgroup is reviewing the Recommended Strategy for Release Reporting and its models? Subcommittee Recommendation Report and charts.
  - Lori Saliby indicated that the Integration/Simplicity Workgroup is reviewing the report.
  - Mark DeCaprio indicated that all workgroups were charged with reviewing the report.

Members expressed that they did not receive a notice of the meeting through the Listserv. Co-chair DeCaprio indicated that he would look into the operation and get it resolved. He had also announced that the Advisory Committee information is available on the DEP Website. Written comments could be sent in if a member can not attend the meeting.

**Agenda Item 6 – Adjournment**

- The meeting wrapped up at 10:12 am. The meeting ended earlier than planned so the Co-chair asked workgroup members to take advantage of the time and meet with their groups.
- The next Advisory Committee meeting is scheduled for February 13, 2008 - Wednesday at 9:30 am in the Russell Hearing Room.